

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
COLUMBIA DIVISION**

**ANTHONY E. GOOCH, Individually
and on behalf of all similarly situated
individuals,**

Plaintiff,

v.

**LIFE INVESTORS INSURANCE
COMPANY OF AMERICA; and
AEGON USA, INC.,**

Defendants.

**Civil Action No. 1:07-0016
JUDGE HAYNES**

*ORDER
In light of the Order
granted to set aside the
ruling on Plaintiff's motion
for partial summary
judgment*

DEFENDANTS' MOTION TO SET ASIDE PARTIAL SUMMARY JUDGMENT

Pursuant to Rule 59(e) of the Federal Rules of Civil Procedure and fundamental principles of due process, Defendant Life Investors Insurance Company of America ("Life Investors") and AEGON USA, Inc. (collectively, "Defendants") respectfully move to set aside the Court's March 6, 2008 Memorandum opinion (Doc. #112) (the "Memorandum") and Order (Doc. #113) to the extent the Memorandum and Order granted Plaintiff's Cross-Motion for Partial Summary Judgment as to Count I seeking Declaratory and Injunctive Relief (Doc. #64) (the "Motion for Summary Judgment"). As grounds for this motion, Defendants rely upon the Memorandum of Law submitted in support of this motion, and the Affidavit of Markham R. Leventhal pursuant to Fed. R. Civ. P. 56(f), which Memorandum and all supporting materials are expressly incorporated into and made a part of this motion.

*Wiley
HAYNES
2-17-09*